

REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-20 are currently being prosecuted. The Examiner is respectfully requested to reconsider his rejections in view of the Amendments and Remarks as set forth hereinbelow.

CLAIM FOR PRIORITY

The Examiner has not recognized the Applicants' claim for foreign priority. In view of the fact that the Applicants' claim for foreign priority has been perfected, the Examiner is respectfully requested to acknowledge Applicants' claim for foreign priority in the next Office Action.

DRAWINGS

The Examiner has not approved the Formal Drawings submitted by the Applicants. It is respectfully submitted that the drawings comply with the requirements of the USPTO. If the Examiner has any objections to the Formal Drawings he is respectfully requested to contact the undersigned as soon as possible so that appropriate action may be taken. No further action is believed to be necessary at this time unless the undersigned receives a notice from the Examiner.

ACKNOWLEDGEMENT OF INFORMATION DISCLOSURE STATEMENT

The Examiner has acknowledged the Information Disclosure Statement filed on November 28, 2003. An initialed copy of the PTO-1449 has been received from the Examiner. No further action is necessary at this time with regard to this IDS.

The Examiner is respectfully requested to acknowledge the Information Disclosure Statement filed on April 2, 2004. An initialed copy of the PTO-1449 should be sent to the undersigned at the earliest convenience of the Examiner.

REJECTION UNDER 35 USC 112

Claims 1 and 11 stand rejected under 35 USC 112 as being indefinite. This rejection is respectfully traversed.

As the Examiner will note, claims 1 and 11 have been amended to indicate that the space is positioned between the rear portion of the exhaust pipe and the right rear frame or the left rear frame. By deleting the word "secured" Applicants have overcome the Examiner's rejection based on 35 USC 112.

REJECTIONS UNDER 35 USC 102 and 103

Claims 1, 2, 4-11 and 14-20 stand rejected under 35 USC 102 as being anticipated by Nakamura et al, US 5,183,130. Claims 3 and 13 stand rejected under

35 USC 103 as being unpatentable over Nakamura et al in view of Alderman, US 6,354,476 B1. These rejections are respectfully traversed.

At the outset, claims 1 and 11 have been amended to include a combination of elements wherein a space for arranging an on-vehicle component is provided wherein the space is positioned between the rear portion of the exhaust pipe and the right rear frame or the left rear frame and the seat is movably mounted relative to the vehicle body frame for selectively permitting access to the space. It is respectfully submitted that claims 1, 2, 4-11 and 14-20 are not anticipated by the prior art cited by the Examiner. As set forth in Section 2131 of the MPEP Original Eight Edition, August 2001 Latest Revision February, 2003, page 2100-70:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. V. Union Oil Co. Of California*, 814 F2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).... “The identical invention must be shown in as complete detail as is contained in the ... claims.” *Richardson v. Suzuki Motor Co.*, 868 F2d 1226, 1236, 9 USQP2d 1913, 1920 (Fed. Cir. 1989).

The Nakamura et al patent is directed to a muffler device for a motorcycle wherein the seat 17 is secured in a fixed position relative to the body frame. A space for arranging an on-vehicle component is not provided with a seat that is movably mounted relative to the vehicle body.

It is respectfully submitted that the Nakamura et al patent cited by the Examiner does not set forth each and every element as defined in the claims. Thus, the Examiner's rejection based on 35 USC 102 has been obviated.

The Alderman patent was cited by the Examiner as providing a teaching of a hook plate 33 and a hook 25 on a seat 12. It is respectfully pointed out that the mounting base 31 of the Alderman patent is secured directly to the rear fender. Luggage 20 is secured to the mounting base 31. The Alderman patent does not overcome the deficiencies of the primary patent nor does it render obvious the subject matter as set forth in the claims of the present application. Removing the seat 12 from the mounting base 31 does not provide access to space for arranging an on-vehicle component as set forth in the claims. The mounting base 31 is not equivalent to the subject matter as set forth in the claims. One of ordinary skill in this art would not modify the Nakamura et al patent to include a removable seat unless he/she first reviewed the subject matter of the present application. Such a hindsight reconstruction of the prior art is not sanctioned by the provisions of 35 USC 103.

NO PROSECUTION HISTORY ESTOPPEL

Claims 1 and 11 have been amended to overcome a rejection based on 35 USC 112 and to clarify the language set forth in the claims. No prosecution history estoppel would apply to the interpretation of the limitations set forth in claims 1-20 in view of the fact that this subject matter has been continuously presented since the original filing date of the present application.

CONCLUSION

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination.

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but to merely show the state of the art, no comment need be made with respect thereto.

In view of the above amendments and remarks, reconsideration of the rejections and allowance of all of the claims are respectfully requested.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (703) 205-8000 in the Washington, D.C. area.

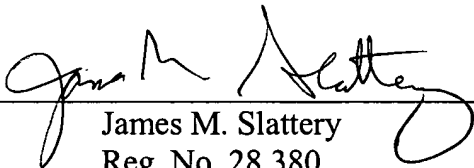
A prompt and favorable consideration of this Amendment is respectfully requested.

Pursuant to the provisions of 37 CFR 1.17 and 1.136(a), Applicants respectfully petitions for a one (1) month extension of time for filing a response in connection with the present application. The required fee of \$110.00 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By  _____
James M. Slattery
Reg. No. 28,380

JMS/mmi
0505-1283P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000